

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

PAUL CASTONGUAY,	)	4:10CV3206
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
BRENDA WHEELER, et al.,	)	
	)	
Defendants.	)	

This matter is before the court on Plaintiff's Motion for Leave to Proceed In Forma Pauperis ("IFP"). (Filing No. [5](#).) As set forth in the Prison Litigation Reform Act, a prisoner cannot:

[B]ring a civil action . . . or proceeding [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

[28 U.S.C. §1915\(g\)](#).

The court dismissed the following three cases brought by Plaintiff because they failed to state a claim upon which relief may be granted:

- *Castonguay v. Douglas County Attorney Office*, No. 8:09CV392 (D. Neb.), dismissed on April 9, 2010. (Case No. 8:09CV392, Filing No. [11](#).)
- *Castonguay v. Douglas County Correction Center*, No. 8:09CV225 (D. Neb.), dismissed on November 3, 2009. (Case No. 8:09CV225, Filing No. [14](#).)
- *Castonguay v. State of Nebraska*, No. 8:09CV221 (D. Neb.), dismissed on November 3, 2009. (Case No. 8:09CV221, Filing No. [15](#).)

Accordingly, Plaintiff has until December 20, 2010, to show cause why he is entitled to proceed In Forma Pauperis (IFP) pursuant to [28 U.S.C. §1915\(g\)](#). Alternatively, Plaintiff

may pay the full \$350.00 filing fee no later than December 20, 2010. In the absence of good cause shown or the payment of the full filing fee, Plaintiff's Complaint and this matter will be dismissed without further notice.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion to Proceed In Forma Pauperis (filing no. [5](#)) is denied without prejudice to reassertion. Plaintiff has until December 20, 2010, to either show cause why he is entitled to proceed IFP pursuant to [28 U.S.C. §1915\(g\)](#) or pay the full \$350.00 filing fee. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.

2. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: December 20, 2010: deadline for Plaintiff to show cause or pay full filing fee.

3. Plaintiff's Motion in Support of Affidavit (filing no. [2](#)) is denied.

DATED this 19<sup>th</sup> day of November, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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